



**The Department of
Arkansas
Heritage**

Mike Beebe
Governor

Martha Miller
Director

Arkansas Arts Council

Arkansas Natural Heritage
Commission

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars
Cultural Center

Old State House Museum



**Arkansas Historic
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NOV 19 2013

Federal Communications Commission
Office of the Secretary

November 15, 2013

Mr. Steve DelSordo
Federal Preservation Officer
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: Multi County – General
Section 106 Review – FCC
Section 106 Scoping Document – Proposed “Positive Train Control”
Initiative Program Comment
DA 13-2058
WT Docket No. 13-240
AHPP Tracking Number 88065

Dear Mr. DelSordo:

This letter is in response to the letter from Mr. Jeffrey Steinberg of the FCC regarding the proposed Advisory Council on Historic Preservation (ACHP) Program Comment on the above-referenced proposed undertaking.

We have concerns with the potential for both direct impacts to archeological deposits and visual impacts to architectural properties from the proposed undertaking. In the teleconference of August 13, 2013, it was mentioned that the poles may be as far as 20 to 30 feet away from the edge of the railroad tracks. This could easily be well outside the area of disturbance from the original track construction. In addition, the depth of the poles will often greatly exceed the depth of the previous disturbance. As you are aware, the vast majority of railroads in the United States were constructed prior to the implementation of laws designed to protect cultural resources, and many unrecorded archeological sites are likely located within the rights-of-way of existing train lines. In addition, we would note that the Arkansas burial law (Arkansas Act 753 of 1991, as amended) protects all human remains, historic and prehistoric, from disturbance, both accidental and intentional, regardless of other factors. Therefore, prehistoric archeological sites of a size and complexity which indicates that they are likely to contain human remains are of particular concern.

We agree with the decision to group submissions by county. In Arkansas all of our cultural resources documentation is organized by county, making this a logical arbitrary organizational scheme to use. Bulk submission of documentation should also help to streamline the Section 106 review process.

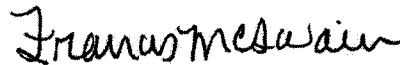
The letter also discussed the FCCs desire that many areas would be categorically excluded from review by SHPOs. It is very likely that areas can be excluded from review based on previous disturbance (e.g. cuts made far below grade) or having been previously surveyed for cultural resources. It is

unlikely, however, that major portions of the rights-of-way can be excluded in this fashion. We will be happy to work with the FCC or its contractors to define areas which can be excluded, and also to identify areas or particular concern for our office.

In the teleconference of August 13, 2013, it was also noted that background research to determine the presence of previously recorded archeological sites and architectural properties would be conducted. We urge the FCC or its contractor to conduct this research as soon as possible.

We look forward to continuing to work with your agency to assist it in meeting its requirements under Section 106 of the National Historic Preservation Act of 1966 (as amended). Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Eric Gilliland of my staff at 501-324-9270.

Sincerely,



Frances McSwain
Deputy State Historic Preservation Officer

cc: Dr. Richard Allen, Cherokee Nation of Oklahoma
Mr. Earl J. Barbry, Jr., Tunica-Biloxi Tribe of Louisiana, Inc.
Mr. Joseph H. Blanchard, Absentee Shawnee Tribe
Ms. Ladonna Brown, Chickasaw Nation
Mr. Kenneth H. Carleton, Mississippi Band of Choctaw Indians
Mr. Robert Cast, Caddo Nation
Ms. Robin Dushane, Eastern Shawnee Tribe of Oklahoma
Dr. Ann Early, Arkansas Archeological Survey
Ms. Tamara Francis-Fourkiller, The Delaware Nation
Ms. Natalie Harjo, Seminole Nation of Oklahoma
Mr. Erik Hein, National Conference of State Historic Preservation Officers
Mr. Jeremiah Hobia, Kialegee Tribal Town
Dr. Andrea A. Hunter, Osage Nation
Ms. Kim Jumper, Shawnee Tribe of Oklahoma
Ms. Jean Ann Lambert, Quapaw Tribe of Oklahoma
Ms. Lisa LaRue-Baker, United Keetoowah Band of Cherokee Indians
Ms. Dana Masters, Jena Band of the Choctaw Indians
Ms. Terri Parton, Wichita and Affiliated Tribes
Mr. Emman Spain, Muscogee (Creek) Nation of Oklahoma
Dr. Ian Thompson, Choctaw Nation of Oklahoma
Ms. Barbara Welborn, Thlopthlocco Tribal Town
Mr. Robert Yargee, Alabama-Quassarte Tribal Town

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